GA1.13:GGD-87-7BR

United States General Accounting Office

GAO

Briefing Report to the Honorable
John R. Kasich, House of Representatives

NOV 2 3 1987

COMPLETED

October 1986

JUSTICE DEPARTMENT

Impediments Faced in Litigating and Collecting Debts Owed the Government

GAO/GGD-87-7BR

GAO

United States
General Accounting Office
Washington, D.C. 20548

General Government Division

B-223784

October 15, 1986

The Honorable John R. Kasich
House of Representatives

Dear Mr. Kasich:

By letter dated November 25, 1985, you asked us to review the Department of Justice's (Justice) procedures and litigation efforts in collecting delinquent debts referred by other federal agencies. Generally speaking, federal agencies are required to refer their delinquent debts to Justice for litigation and collection when the agencies' administrative efforts to collect have not been successful. On May 15, 1986, we briefed you and your staff on the preliminary results of our work at Justice and agreed to provide you this briefing report when our work was completed.

In conducting this review, we analyzed fiscal year 1985 and 1986 debt caseload and accounts receivable data reported by Justice, the Office of Management and Budget (OMB), the Department of the Treasury (Treasury), and five federal agencies that account for the majority of the debts that are referred to Justice. We also visited four U.S. attorney offices which handled a variety of federal agencies' delinquent debt referrals to Justice and reviewed a judgmental sample of case files. Furthermore, we reviewed internal management evaluations conducted in fiscal year 1985 that covered the debt collection operations at 35 U.S. attorney offices.

The caseload and accounts receivable data presented in this report were the products of automated and manual systems maintained by the agencies. We did not conduct a reliability assessment of this data and cannot attest to its accuracy. An OMB report issued in January 1981 and more recent GAO reports issued in 1985 and 1986 have found that Justice and other federal agencies have unreliable systems to track, account for, and report on debt caseload and accounts receivables.

This letter summarizes the results of our review and the attached sections provide the details on the scope of our work (see sec. 1), the information obtained on Justice's efforts to litigate and collect delinquent debts (see secs. 2 through 4), and the composition and characteristics of debts held by the five agencies covered in this review (see sec. 5).

OVERVIEW AND COMPOSITION OF THE DEBT AT JUSTICE

As of September 30, 1985, about $59 billion (17 percent) of the $346 billion in government receivables was delinquent. According to Justice records, it had about 96,750 debt cases outstanding as of this date, valued at about $6.5 billion. These cases include agency referred delinquent debts and cases where Justice is attempting to collect civil fines or penalties that have been assessed for federal law violations. Approximately 95,500 cases valued at $2.0 billion were being handled by 94 U.S. attorney offices and 1,250 cases valued at $4.5 billion were being handled by Justice's Civil Division.

Of the 96,750 cases at Justice, the Department of Education (Education) and Veterans Administration (VA) accounted for about 54,000 cases or about 56 percent of the pending caseload. This large volume of cases is generally handled by the U.S. attorney offices' debt collection units and involves relatively small dollar (between $2,300 and $2,600 on average) student loan defaults and veterans overpayments. The cases are usually uncontested debts and require limited attorney time to litigate but do require substantial clerk/paralegal time to process and collect.

The Departments of Agriculture (Agriculture) and Housing and Urban Development (HUD) and the Small Business Administration (SBA) accounted for most of the remaining cases at Justice (about 26,200 cases or 27 percent of the pending caseload). These cases generally are more complex and involve large dollar amounts which are handled either by the Justice Civil Division or by the U.S. attorney offices. The large dollar cases include defaulted business loans and agriculture commodity and farm loans. The litigative work on these cases can be labor intensive and require considerable attorney time to investigate, prepare, and present the government's case in court.

JUSTICE HAS TAKEN ACTIONS TO IMPROVE THE DEBT LITIGATION AND COLLECTION PROCESS BUT PROBLEMS STILL EXIST

In January 1981, OMB issued its Report on Strengthening Federal Credit Management which noted that federal agencies needed better tools to recover outstanding debts and that Justice's litigation and collection efforts primarily at the U.S. attorneys were basically slow, ineffective, and inefficient. Since OMB's debt collection report of 1981, Justice has taken several actions to improve its debt litigation and collection performance, such as committing additional resources to the program, developing standard operating policies and procedures, and implementing a system to better control and expedite the deposit of debt collection payments to the Treasury Department.

Although Justice has made progress to improve its debt litigation and collection performance, its ability to collect a large part of the referrals is affected by the nature of the debts and the ability of the debtors to pay their obligations. For example, many cases involve bankruptcy matters where collections may not be possible. In addition to the collectibility of the debts, Justice is also hampered in taking aggressive and timely actions to litigate and enforce the collections of debts owed the government because

--agency debt referral packages, while improved over past reported problems, are not always submitted in a timely manner and do not always include information Justice needs to litigate and collect the debt (see pp. 29 to 31);

--U.S. Marshals, due to higher priorities, are not always available for serving necessary legal documents (see pp. 36 and 37);

--state laws present obstacles to enforcing collections (see pp. 38 to 40); and

--federal bankruptcy laws delay the recovery of money owed the government (see pp. 43 and 44).

Besides these external factors, Justice is experiencing other problems which affect the timely litigation and collection of debts and indicate a continuing need for Justice to improve the management of its debt collection efforts. These problems include

--insufficient number of staff or lack of trained staff to handle the large debt caseload (see pp. 38 to 41),

--poor recordkeeping on the status and disposition of debt cases (see pp. 38 and 45), and

--coordination problems in processing debt cases (see pp. 44 to 46).

CHANGES THE CONGRESS AND JUSTICE ARE CONSIDERING THAT COULD IMPROVE THE DEBT COLLECTION PROCESS

The Congress and Justice are considering several actions to provide additional resources to handle the large debt caseload. Proposed legislation is before the Congress that would (1) allow Justice to contract with private attorneys to help agencies in the litigation and collection of debts (see pp. 48 to 50) and (2) provide budgetary incentives to federal agencies for improved debt collection and credit management (see pp. 50 and 51).

In addition, Justice is considering actions that would (1) minimize the impact state laws and procedures have on the

federal government's ability to recover money owed on delinquent accounts (see p. 51) and (2) raise the amount of debts VA could litigate to $5,000 (see p. 50). Currently VA can litigate its own delinquent debt cases valued at $1,200 or less rather than refer them to Justice.

The changes being considered by the Congress and Justice in the federal government's debt litigation and collection process offer potential for reducing Justice's caseload and improving the collection of federal agencies' delinquent debts. In addition, the federal income tax refund offset program could reduce Justice's workload and increase collections. Currently, the federal agencies covered in this review are participating in a pilot project with the Internal Revenue Service (IRS) whereby individuals' income tax refunds payable in 1986 and 1987 are offset by delinquent debts the individuals owe the federal government. The first year of the program has shown positive results, about $143 million collected on delinquent debts held by the five agencies. For the second year of the project, Justice and three other agencies will also participate in the program. Justice plans to use the income tax offset program to collect criminal fines but has not decided on whether agency referred civil debts should be included in the program. (See pp. 51 and 52.)

As you requested, we did not obtain official agency comments on this report. However, we obtained the views of officials from Justice and other agencies covered in this review and incorporated their comments where appropriate. The officials who reviewed a draft of this report told us that they generally agreed with the information presented. We trust this report will be useful in your consideration of this important area. As arranged with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 5 days from the date of this report. At that time we will send the report to the Attorney General, heads of the departments and agencies covered in this review, and other interested parties.

If you have any questions regarding the contents of this document, please call me on (202) 275-8389.

Sincerely yours,

Arnold P. Jones
Senior Associate Director

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Abbreviations

GAO	General Accounting Office

GSA	General Services Administration
FHA	Federal Housing Administration
HUD	Department of Housing and Urban Development
OMB	Office of Management and Budget
IRS	Internal Revenue Service
SBA	Small Business Administration
VA	Veterans Administration

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SECTION 1

OBJECTIVE, SCOPE, AND METHODOLOGY

On November 25, 1985, Congressman John R. Kasich requested that we review the Department of Justice's (Justice) procedures in litigating and collecting delinquent debts referred by other federal agencies. Our review was performed from March through July 1986 and was conducted in accordance with generally accepted government auditing standards.

In conducting this review, we collected debt caseload and accounts receivable data from Justice, the Office of Management and Budget (OMB), the Department of the Treasury (Treasury), and five federal agencies that account for the majority of the government's nontax debts referred to Justice--Agriculture, Education, Housing and Urban Development (HUD), Veterans Administration (VA), and Small Business Administration (SBA). At these five agencies we interviewed officials responsible for debt collection to (1) obtain information on their loan and/or benefit programs, (2) identify the procedures followed in referring delinquent debt cases to Justice, and (3) obtain their views on what improvements are needed in the litigation process. We also interviewed OMB officials responsible for debt collection oversight in the government to obtain their views on the debt collection and litigation process.

To determine the debt collection and litigation process used by Justice, we visited the following offices that are responsible for the litigation, collection, accounting, and oversight of debts:

--Civil, Tax, Land and Natural Resources, and Antitrust Divisions; the Executive Office for U.S. Attorneys; and the Justice Management Division located at Justice headquarters in Washington, D.C.; and

--4 of 94 U.S. attorney offices[1] located in the districts of northern Illinois, southern New York, southern Ohio, and northern Texas.

We selected these four offices because they operated automated systems to manage their debt cases and handled a variety of federal agencies delinquent debt referrals. As of July 1986, Justice had automated case management systems at 55 U.S. attorney offices.

To get an indication of the effectiveness of debt litigation and collection in other U.S. attorney offices, we reviewed internal evaluations conducted by U.S. attorney officials during fiscal year 1985. These studies evaluated the operations and management of the debt collection units established at 35 U.S. attorney offices.

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[1]Although there are currently 94 U.S. attorney offices, there are only 93 U.S. attorneys because 1 U.S. attorney administers the activities performed by 2 judicial districts--Guam and the Northern Mariana Islands.

At Justice headquarters and U.S. attorney offices visited, we did the following:

--Interviewed attorneys, debt collection personnel, and financial management and program administration officials to learn their program operations and to obtain their views on impediments to debt litigation and collection.

--Analyzed Justice and U.S. attorney procedures for accepting, litigating, enforcing, and compromising agencies' referred debts.

--Reviewed U.S. attorney offices' case management reports generated at the end of the second quarter of fiscal year 1986 to assess the debt collection units' efforts to collect on referred debts.

--Reviewed 293 U.S. attorney offices' debt collection case files to determine whether they were receiving adequate information from the agencies to process cases and whether they were aggressively pursuing collections.

--Reviewed 23 Justice Civil Division case files and analyzed management reports on large dollar cases handled by two U.S. attorney offices visited--southern New York and northern Illinois. These reports showed that the two U.S. attorney offices were handling 305 large dollar cases (debts exceeding $10,000). From the 305 cases we selected 13 cases for further review. The purpose of reviewing case files was to identify the impediments Justice faces in litigating and collecting these large dollar cases.

The 329 cases we reviewed were judgmentally selected from closed and pending cases handled during fiscal year 1985 and the first and second quarters of fiscal year 1986. In making our selections, we consulted with Justice Civil Division officials and U.S. attorneys' debt collection unit supervisors to ensure that the cases selected involved delinquent debts.

Because a prior OMB report identified the operations of the federal court system as an impediment to the resolution of debts, we sent letters to the Chief Judges and court clerks in 16 U.S. district courts that handled for the 12-month period ending March 31, 1986, in excess of 1,000 cases each asking them what impact the debt cases were having on the courts' caseload system and whether they were having to delay the processing of legal papers required for enforced collections. Since the OMB report also mentioned inadequate resources of the U.S. Marshals Service as an impediment to debt litigation, we contacted the U.S. Marshals Service to determine problems it faces in serving legal documents needed to litigate and collect debts.

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SECTION 2

DEBT COLLECTION AND LITIGATION RESPONSIBILITIES IN THE FEDERAL GOVERNMENT

BACKGROUND

In 1979, OMB established a Debt Collection Project to undertake a governmentwide review to identify collection problems confronting agencies, including Justice. OMB's Debt Collection Project report issued in January 1981[1] showed that federal agencies needed better collection tools to recover outstanding debts. With regard to Justice, primarily U.S. attorneys, the OMB report noted that debt litigation and collection was basically slow, ineffective, and inefficient. The report said, among other things, that there was

--historically a lack of management control and attention to enforcing collections;

--large case backlogs;

--inadequate staffing and training;

--lack of adequate systems for tracking and processing cases; and

--inadequate policies and procedures for processing and collecting debt referrals, compromising debts, enforcing collections, reviewing collection performance, and determining proper staffing levels.

Compounding these problems, the OMB report noted that the U.S. attorneys' litigation and collection efforts were hampered by factors beyond their control including:

--inaccurate and incomplete information on debtor location, the amounts owed, ability to pay, and previous collection attempts by the agencies;

--a heavily burdened court system which sometimes delayed the processing of debt cases; and

--limited availability of U.S. Marshals for promptly serving necessary legal documents.

To provide federal agencies additional tools to collect delinquent debts, on October 25, 1982, the Congress passed the Debt Collection Act of 1982 (Public Law 97-365). The law, which amended the Federal Claims Collection Act of 1966 (Public Law 89-508), provides among other things, that agencies can

--pay debt collection contractors from the proceeds recovered by the debt collectors;

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[1] Report on Strengthening Federal Credit Management, Office of Management and Budget, January 1981.

--disclose addresses they obtain from IRS to certain third parties, such as private collection agencies;

--make deductions from the wages of federal employees who are delinquent in their payments to the government if certain procedures are followed; and

--disclose names and addresses of debtors and the amounts they owe the government to consumer credit bureaus if certain procedures are followed.

To provide federal agencies with an additional resource for improving their debt collection capability, the General Services Administration (GSA) awarded 2-year contracts in October 1985 to four collection agencies for collecting debts owed the federal government. Agencies with existing contracts for collection services are allowed to continue to use those services until their contracts expire, after which they are required by OMB to use the GSA contractors for collections.

Since 1978, we have issued numerous reports on the lack of success federal agencies have had in collecting delinquent debts and have stressed the need for agencies to improve their debt collection practices. We recently reported to Senator Dennis DeConcini[2] that agencies which hold a large amount of debts due from the public had not taken all administrative collection actions authorized by the Debt Collection Act of 1982. Futhermore, the report found that some of these agencies were not using other tools to recover money owed the government, such as reporting discharged debts to IRS for inclusion in the debtors' taxable income or selling portions of their loan portfolios to the private market when it is in the best interest of the government to do so. Also, we recently reported to the Congress that Justice's debt collection activities have been hindered by (1) limited planning and policy management capability at the departmental level and (2) problems obtaining accurate, timely, and complete information on its debt collection operations.[3]

The Congress also passed the Deficit Reduction Act of 1984 (Public Law 98-369) which, for a 2-year period, requires IRS to recover past due, legally enforceable debts owed the government by withholding income tax refunds payable in 1986 and 1987. Agriculture, Education, HUD, SBA, and VA participated in the first year of this pilot program and referred 750,000 delinquent

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[2]Debt Collection: Billions Are Owed While Collection and Accounting Problems Are Unresolved (GAO/AFMD-86-39, May 23, 1986).

[3]Justice Department: Improved Management Processes Would Enhance Justice's Operations (GAO/GGD-86-12, Mar. 14, 1986) and Financial Integrity: Justice Made Progress But Further Improvements Needed (GAO/GGD-86-9, Oct. 31, 1985).

accounts to IRS. As of June 25, 1986, the agencies reported that IRS recovered $142.8 million on delinquent accounts valued at $1.3 billion as follows: Agriculture ($1.2 million), Education ($122.3 million), HUD ($5.3 million), SBA ($6 million), and VA ($8 million). In addition to these agencies, an OMB official told us that the Departments of Defense, Justice, Treasury, and Health and Human Services are going to participate in the second year of the program.

AGENCIES' DEBT COLLECTION RESPONSIBILITIES

Each federal agency is responsible for collecting debts that result from its activities or are referred to them in accordance with the joint GAO and Justice Federal Claims Collection Standards and OMB guidelines. The Federal Claims Collection Standards were revised in March 1984 to incorporate the provisions of the Debt Collection Act. The standards require that agencies' collection efforts be aggressive and timely, and provide guidance to agencies on when and how to collect the debts. The standards also allow agencies to (1) compromise debts for less than the full amount owed, such as when the debtor's financial situation limits his or her ability to pay; (2) suspend collection actions, such as when there is an opportunity to fully recover amounts owed in the future; and (3) terminate collection efforts, such as when the cost of collecting the debt will exceed amounts that can be recovered.[4] In May 1985, OMB also issued Circular A-129 entitled "Managing Federal Credit Programs" to help agencies improve credit management and debt collection. This circular prescribes policies and procedures to guide agencies in the collection of loans and other receivables and for writing off uncollectible accounts.

When agencies have exhausted all administrative remedies to collect delinquent debts, the debts cannot be compromised, or collection actions cannot be suspended or terminated, they are required under the Federal Claims Collection Standards to refer the delinquent accounts to Justice for legal action. Agencies are required under the standards to provide Justice with information on (1) the current address of the debtor; (2) the actions taken to collect on the debt; and (3) the debtor's ability to pay on the debt, such as income and assets that can be attached. The standards also emphasize that the referrals to Justice should be made ordinarily within one year after the agency determines that the person is indebted to the government. Under these standards, agencies are not required to refer accounts of less than $600 unless they feel it is important for enforcement and it is clear that Justice can collect the debt. The standards state that debts less than $100,000 should be directed to the U.S. attorneys. Debts greater than that amount

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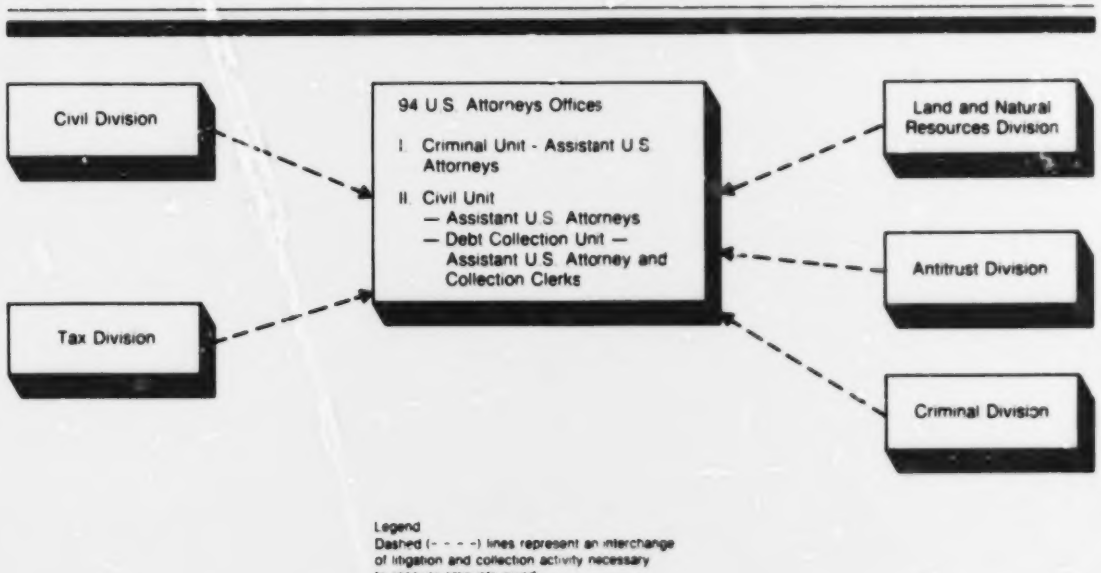
[4]Some agencies have separate and independent authority in this area. For example, the Consolidated Farm and Rural Development Act (7 U.S.C. 1981) governs how the Farmers Home Administration compromises debts resulting from many of its activities.

are to be sent to Justice headquarters. However, Justice officials told us that agencies have been informally advised to refer debts under $200,000 directly to the U.S. attorney office in the district where the debtor resides and to refer debts greater than $200,000 to Justice headquarters in Washington, D.C.

JUSTICE'S DEBT LITIGATION AND COLLECTION RESPONSIBILITIES

Justice, as the government's principal litigator, is responsible for litigating and collecting delinquent debt cases referred by other federal agencies and for collecting civil and criminal fines, penalties, and forfeitures assessed by the U.S. courts. Figure 2.1 shows the Justice components involved in litigating and collecting debts.

Figure 2.1: Justice Components Involved in Litigating and Collecting Debts


Civil Division
Tax Division
94 U.S. Attorneys Offices
I. Criminal Unit - Assistant U.S. Attorneys
II. Civil Unit
— Assistant U.S. Attorneys
— Debt Collection Unit — Assistant U.S. Attorney and Collection Clerks
Land and Natural Resources Division
Antitrust Division
Criminal Division
Legend
Dashed (- - - -) lines represent an interchange of litigation and collection activity necessary to recover amounts owed

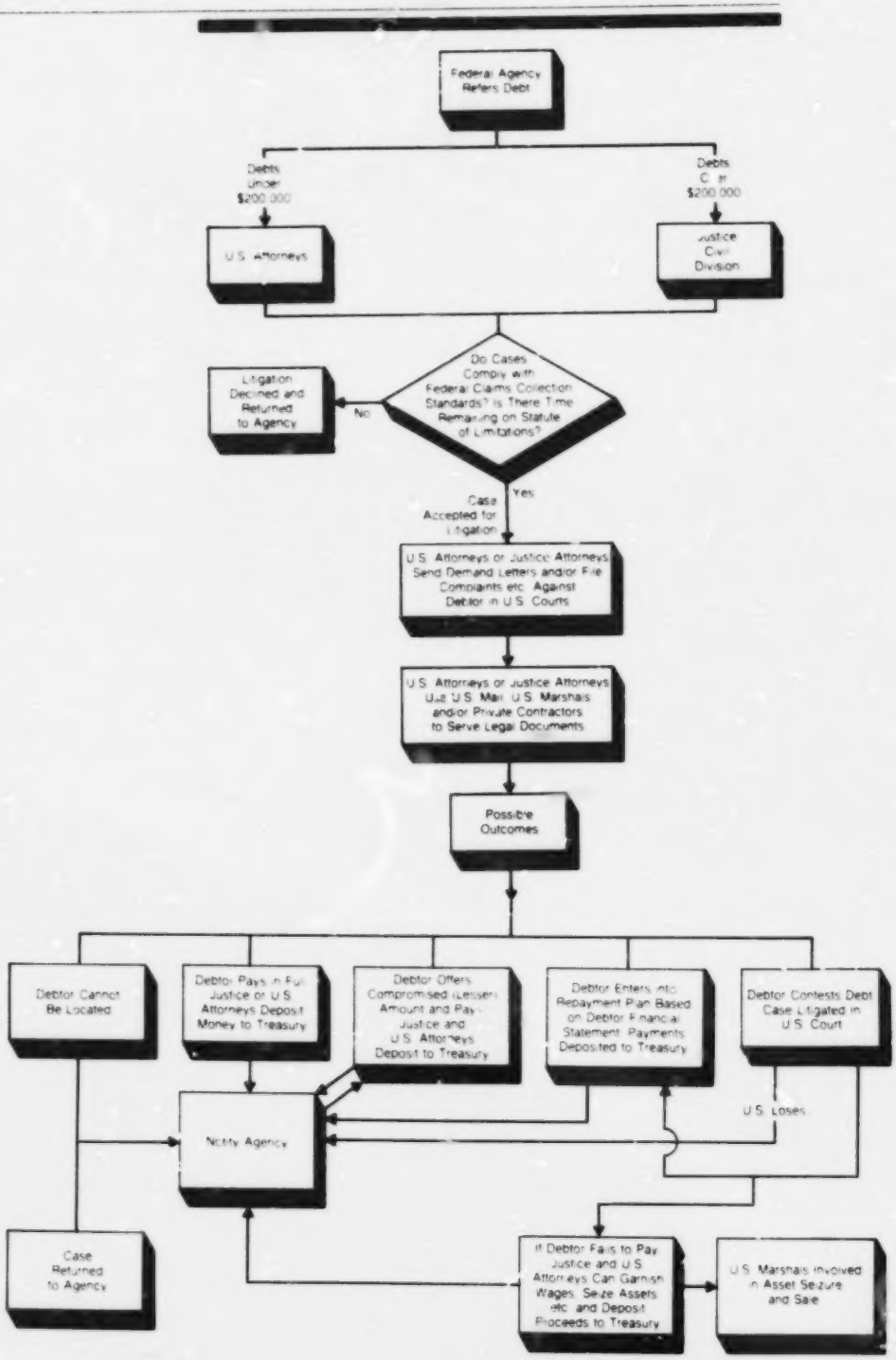
The 94 U.S. attorney offices litigate the majority of the referred delinquent debt cases and collect most of the delinquent debts, fines, penalties, and forfeitures for Justice. For the large dollar debt cases referred to Justice's Civil Division, the division's attorneys may handle the cases themselves or refer the cases to the appropriate U.S. attorney's office for litigation. This decision is made on a case-by-case basis depending on the type of case and legal issues involved.

Justice's Civil, Tax, Land and Natural Resources, Antitrust, and Criminal divisions also have major roles in litigating and collecting other kinds of civil and/or criminal debts and work closely with the U.S. attorneys in collecting these debts. The Tax Division is responsible for recovering taxes from bankrupt debtors and individuals and corporations who owe delinquent taxes. Some of the activities of the other legal divisions include (1) litigating and collecting fines and penalties for violations of environmental, banking, antitrust, and drug trafficking laws and (2) recovering money spent by federal agencies to repair damages to federal property and natural resources caused by private parties.

Each U.S. attorney's office has a civil and criminal unit, and each unit is responsible for litigating or prosecuting cases within their respective area. Each civil unit has established a debt collection unit responsible for litigating and collecting referred delinquent debt cases and for collecting civil and criminal fines, penalties, and forfeitures within a judicial district's geographic boundaries. The debt collection units are headed by an assistant U.S. attorney and may be staffed with a paralegal specialist and several collection clerks. Generally, the debt collection unit processes through the courts the small dollar delinquent debt cases, such as student loans and veterans overpayments. The civil unit attorneys generally handle the more complex high dollar debt cases dealing in, among other things, foreclosures and bankruptcies which require particular expertise and may involve extensive legal proceedings to identify and recover assets needed to liquidate the debt.

Figure 2.2 shows the debt litigation and collection process when agencies refer nontax debts to either the U.S. attorneys or Justice's Civil Division.

Figure 2.2: The Litigation and Collection Process for Referred Agency Nontax Debts


Federal Agency Refers Debt
Debts Under $200,000
Debts Over $200,000
U.S. Attorneys
Justice Civil Division
Do Cases Comply with Federal Claims Collection Standards? Is There Time Remaining on Statute of Limitations?
No
Litigation Declined and Returned to Agency
Yes
Case Accepted for Litigation
U.S. Attorneys or Justice Attorneys Send Demand Letters and/or File Complaints etc. Against Debtor in U.S. Courts
U.S. Attorneys or Justice Attorneys Use U.S. Mail, U.S. Marshals and/or Private Contractors to Serve Legal Documents
Possible Outcomes
Debtor Cannot Be Located
Debtor Pays in Full; Justice or U.S. Attorneys Deposit Money to Treasury
Debtor Offers Compromised (Lesser) Amount and Pays; Justice and U.S. Attorneys Deposit to Treasury
Debtor Enters into Repayment Plan Based on Debtor Financial Statement; Payments Deposited to Treasury
Debtor Contests Debt; Case Litigated in U.S. Court
U.S. Loses
Notify Agency
Case Returned to Agency
If Debtor Fails to Pay, Justice and U.S. Attorneys Can Garnish Wages, Seize Assets, etc. and Deposit Proceeds to Treasury
U.S. Marshals Involved in Asset Seizure and Sale

U.S. Attorneys' process

When the U.S. attorneys receive delinquent debt referrals from the agencies, they are supposed to review the information for completeness and determine whether the applicable statute of limitations has expired.[5] If the information is deficient and cannot be resolved with a minimum of effort and/or the statute of limitations has expired, Justice procedures advise the U.S. attorneys to return the account to the referring agency stating reasons why legal action will not be taken against the debtor. If the information provided meets the Federal Claims Collection Standards, they assign the delinquent account a case number and notify the agency of their acceptance of the account for litigation. Under Justice procedures, U.S. attorneys can send a demand letter informing the debtor that a suit will be filed to recover the debt unless full payment is made or they can forego the demand letter and file a complaint in federal district court.

Once the complaint is filed in a federal district court, the U.S. attorneys use the U.S. mail and U.S. Marshals, and in some instances private parties in serving the complaint on the debtor when the client agency provides funds for this purpose. After the judgment is awarded by the U.S. district court, Justice procedures require that the U.S. attorneys take immediate action to record a lien against the debtor's real estate as a means of securing government rights to the property in case the debtor fails to pay his/her debt. Recording liens on debtors' property must comply with state laws and generally requires recording liens in local county courts where the debtor lives or owns property.

Before or after court judgments are obtained, the debtor may agree to pay his/her debt in full or enter into an installment payment plan with the U.S. attorneys. With regard to installment payment plans, Justice procedures require that the U.S. attorneys (1) obtain a financial statement from the debtor to determine that he/she cannot presently pay the debt in full, (2) establish an installment payment plan that will liquidate the debt at the earliest possible date or within a maximum of 3 years, and (3) monitor the debtor's financial situation every 6 months to 1 year in order to determine whether the debt can be liquidated sooner. If the debtor does not agree to pay the debt in full or fails to make the installment payments, the U.S. attorneys can begin actions to enforce collection. Actions that U.S. attorneys may be able to take include garnishment of wages and bank accounts, seizure of other assets, and foreclosures on property. In determining what action to take, the U.S. attorneys have to consider and comply with diverse and varying state laws and procedures which may protect certain debtors' income and assets from enforced collections.

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[5]A statute of limitations is a law assigning a certain time limit after which a lawsuit may not be initiated.

Justice's Civil Division process

For debt cases handled by Justice's Civil Division attorneys, a Civil Division official said that the litigation process of filing complaints and obtaining judgments is similar to the process described for U.S. attorneys. The large dollar cases handled by this division generally require extensive attorney time and may involve lengthy negotiations among the Justice attorney, referring agency officials, and the debtor. Furthermore, these cases may involve federal bankruptcy laws and possible violations of other civil and criminal statutes if the debtor is trying to manipulate or hide assets from the government.

OVERVIEW OF DEBTS REFERRED TO JUSTICE FOR LITIGATION AND COLLECTION

As of September 30, 1985, (see table 2.1), federal agencies reported to the Department of the Treasury and OMB that they were owed about $346 billion and that about $59 billion (17 percent) was delinquent. About $35 billion of the delinquent debt (59 percent) represents delinquent taxes, interest, and penalties and is included under the Department of the Treasury figures. The remainder (about $24 billion) represents delinquent loans and other debts owed the government.

Table 2.1 also shows that about 158,000 accounts valued at about $4.6 billion (8 percent of the total delinquent debt) have been referred to Justice and are awaiting litigation and/or enforced collection. Most of the nontax delinquent debt referred to Justice is owed to Agriculture, Education, HUD, SBA, and VA. OMB reports summarizing agencies receivables reported to Treasury showed that these departments and agencies had about 153,000 accounts at Justice valued at about $4 billion (86 percent of the referred debt). Section 5 provides a description of the debts held by these five departments and agencies and the types of delinquent debts they referred to Justice.

TABLE 2.1

Agencies' Receivables, Delinquencies, and Referrals to Justice as of September 30, 1985

Organizations	Agencies' receivables (note a)				
	Balance (millions)	Delinquent		Pending at Justice	
		(millions)	Percent	Accounts	(millions)
Agriculture	$135,967	$9,197	6.8%	20,991	$2,518
Commerce	$1,068	$516	48.3%	107	$23
Defense	$3,168	$1,030	32.5%	688	$46
Education	$11,885	$3,945	33.2%	65,358	$97
Energy	$3,033	$68	2.2%	12	$1
Health & Human Services	$3,683	$479	13.0%	204	$21
Housing & Urban Development	$29,076	$1,576	5.4%	1,555	$334
Interior	$2,302	$280	12.2%	60	$4
Justice	$325	$39	12.0%	7	$1
State	$44	$11	25.0%	0	$0
Labor	$543	$372	68.5%	3,511	$23
Transportation	$2,884	$620	21.5%	382	$508
Treasury	$56,168	$35,584	63.4%	1	(note b)
International Development	$19,629	$282	1.4%	2	$3
General Services Administration	$63	$20	31.7%	112	$9
Small Business Administration	$8,583	$2,519	29.3%	24,139	$982
Veterans Administration	$4,478	$1,555	34.7%	41,074	$79
Other (note c)	$62,876	$1,097	1.7%	82	(note b)
Total	$345,775	$59,190	17.1%	158,285	$4,649

Note a: Accounts receivables for some programs such as Education student loan programs are recorded when the agency assumes the debt from the organization that made or insured the loan.

Note b: Less than $1 million.

Note c: Includes Export/ Import Bank, Federal Financing Bank, Interstate Commerce Commission, Railroad Retirement Board, National Aeronautics and Space Administration, Overseas Private Investment Corporation, and U.S. Railway Association.

Source: Data extracted from OMB reports.

As of September 30, 1985, Justice records showed it was handling about 96,750 civil debt cases valued at about $6.5 billion (see table 2.2). Of the 96,750 cases at Justice, figure 2.3 shows that Education and VA accounted for about 56 percent of the pending caseload. Agriculture, HUD, and SBA accounted for the majority of the remaining cases at Justice (about 26,200).

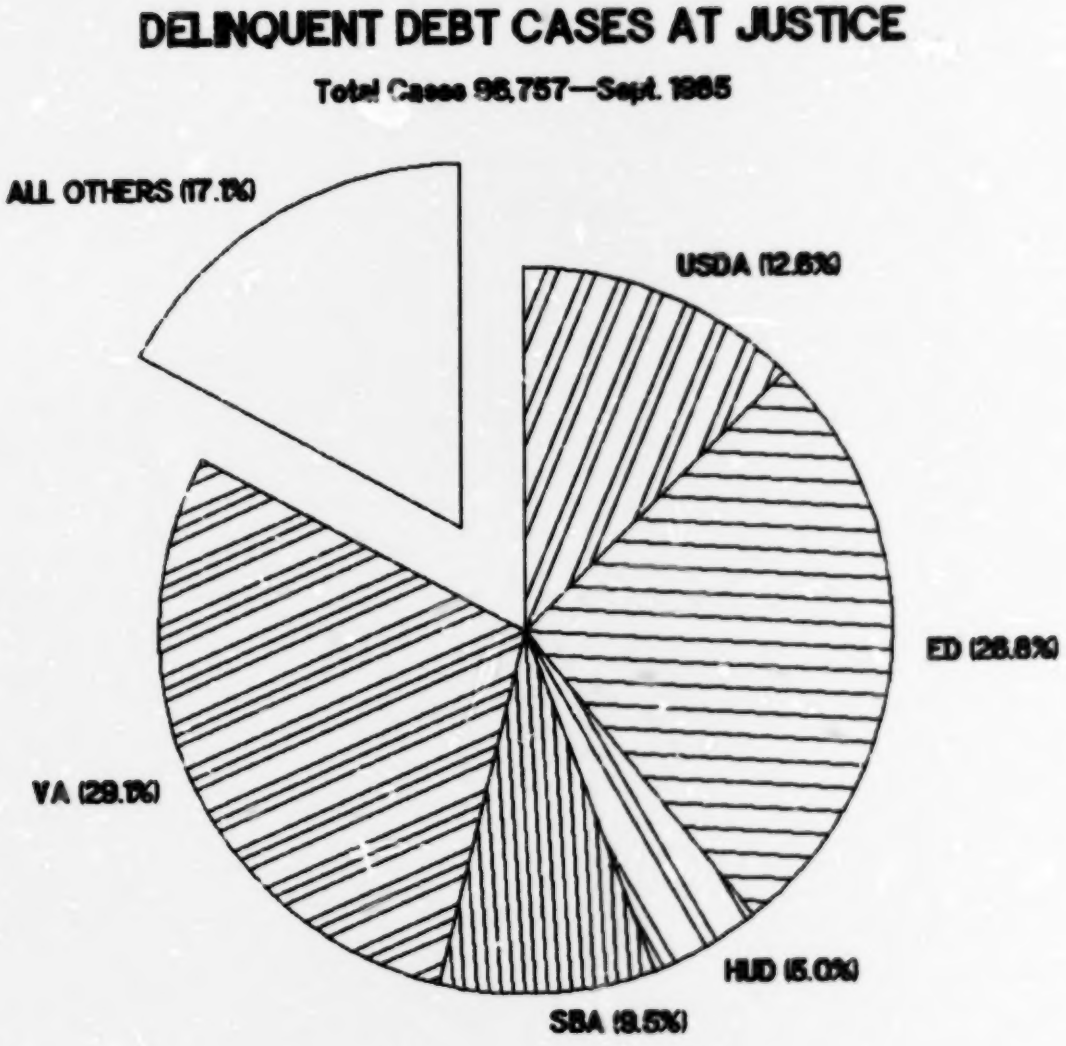
TABLE 2.2

Debt Cases Pending at U.S. Attorney Offices and the Department of Justice Civil Division as of September 30, 1985

Agency	U.S. Attorneys	Civil Division	Total
Agriculture	12,040	104	12,144
Education	25,915	13	25,928
Housing and Urban Development	4,762	61	4,823
Small Business Administration	9,160	47	9,207
Veterans Administration	28,086	32	28,118
Other	15,551	986	16,537
Total cases	95,514	1,243	96,757
(note a) Total value	$2.0 billion	$4.5 billion	$6.5 billion

Note a: The total value represents amounts owed in all civil cases including delinquent debts, civil fines, and penalties.

Figure 2.3



Note a: The percents do not add to 100 percent due to rounding.

As can be seen in tables 2.1 and 2.2, there are differences between agencies' and Justice's records on the number of accounts referred and the pending debt caseload at Justice. According to Justice and agency officials, the reasons for the differences include: (1) agencies maintain more than one account for recording the principal and interest on an individual's debt, (2) U.S. attorney offices fail to record and/or close debt cases in a timely fashion, and (3) Justice and agencies fail to keep each other informed on the status of debt referrals. OMB, Justice, and the agencies recognize that there are differences between the reported accounts referred and pending debt cases at Justice, and they are in the process of reconciling the differences. The reconciliation is scheduled to be completed by December 31, 1986.

From October 1, 1983, through April 30, 1986, Justice reported cash collections totaling about $706 million for all departments and agencies. Table 2.3 shows the cash collections Justice reported for the five departments and agencies covered in this review from March 1, 1984, through June 24, 1986, (before March 1984, Justice's automated reporting system did not capture collection data by agency). The amounts shown include all civil collections for these agencies such as delinquent debts, fines, and penalties. According to Justice officials, the reporting system cannot readily separate collections for agency referred delinquent debts from collections for civil fines and penalties.

TABLE 2.3

Justice Reported Cash Collections

for the Five Major Credit Agencies

Agencies	FY 1984 (note a)	FY 1985	FY 1986 (note b)	Totals
Agriculture	$15,948,659	$30,703,124	$63,167,629	$109,819,412
Education	$3,115,819	$8,925,565	$7,734,879	$19,776,263
Housing and Urban Development	$3,883,952	$25,056,205	$16,870,443	$45,810,600
Veterans Administration	$3,722,343	$8,389,030	$7,051,150	$19,162,523
Small Business Administration	$10,797,028	$22,636,681	$18,637,259	$52,070,968
Total	$37,467,801	$95,710,605	$113,461,360	$246,639,766

Note a: Covers period from March through September 1984.

Note b: Covers period from October 1985 through June 24, 1986.

SECTION 3

PROGRESS AND PROBLEMS IN LITIGATING AND COLLECTING DEBTS OWED THE GOVERNMENT

ACTIONS TAKEN BY JUSTICE TO IMPROVE DEBT LITIGATION AND COLLECTION

Since OMB's debt collection report of 1981, the Justice Department has taken several actions to improve its performance as the principal litigator of agency referred debts. Specifically, Justice:

--Created debt collection units at each of the U.S. attorney offices in 1982 and authorized these units an additional 100 full-time and 60 temporary positions. As of July 1986, there were a total of about 450 personnel directly involved in debt collection unit operations.

--Provided U.S. attorney offices with word processing equipment and automated case management systems for preparing legal documents and tracking debt cases. As of July 1986, all U.S. attorneys have received word processing equipment, and 55 offices have received automated case management systems. Implementation of the case management systems was temporarily suspended in fiscal year 1986 due to budget constraints. A Justice official told us that they will resume installing these systems at a rate of 3 per month starting in fiscal year 1987.

--Conducted 16 training conferences for U.S. attorney office and client agency personnel on basic and advanced debt collection techniques. Justice also developed a regional specialist program in which a group of experienced debt collection personnel provide on-site, intensive training to debt collection employees. This program has been operational since May 1983.

--Authorized the U.S. attorney offices in March 1986 to buy credit reports on debtors which provide basic information on debtor location, employment, income, and assets that can be used to locate the debtor and assess his/her ability to pay. However, funds have not been made available for their purchase.

--Appointed a former District of Columbia Superior Court Judge to head the Executive Office for U.S. Attorneys debt collection staff whose major responsibility is to serve as the liaison with client agencies, OMB, GAO, and congressional staff on debt collection matters. The debt collection staff provides policies, procedures, support, and oversight to the debt collection units.

--Completed in March 1986 a draft debt collection policies and procedures manual for U.S. attorneys

which compiled in one volume all previously issued Departmental policies relating to debt collection. At the end of our review, the manual had been sent for printing.

--Developed an incentive awards program for excellence in collection work by nonattorney collection personnel.

--Implemented in March 1984 a commercial lockbox system to expedite the deposit of debt collection payments received at U.S. attorney offices. Under the lockbox system, U.S. attorneys send debt collection payments to a postal rental box serviced by a commercial bank instead of sending the payments to agencies for later deposit. According to Justice officials, this change has reduced delays in depositing money to appropriate Treasury accounts. The Executive Office for U.S. Attorneys is currently studying the feasibility of requiring debtors to send their payments directly to the lockbox system. If adopted, this change will eliminate the need for debt collection unit staff to prepare deposits, and as a result, they can devote more effort to collections.

Although improvements are being made, Justice is still faced with a number of problems as discussed in the following sections.

PROBLEMS WITH PROCESSING AGENCIES' DEBT REFERRALS

OMB reported in 1981 that U.S. attorneys were often hindered in litigating and collecting debts because (1) the accounts referred to U.S. attorneys were often 3 to 6 years old making them very difficult to collect because of their age, (2) the credit reports provided by agencies generally lacked necessary debtor employment and asset information, and (3) the debtor addresses furnished by the agencies (up to 25-30%) were erroneous. Our review of 115 pending cases accepted for litigation by the debt collection units at the four U.S. attorney offices visited showed that the problems reported by OMB still exist although there has been some improvement. As table 3.1 shows, the accounts referred to Justice by Education, VA, SBA, HUD, Agriculture, and other agencies (Railroad Retirement Board-one case, Air Force-one case, and Social Security Administration-two cases) were delinquent an average of 2.2 years.

In addition to the problem of having to collect on old accounts, as table 3.2 shows, Justice is receiving accounts which lack necessary financial information on the collectibility of the debt, such as employment, salary, and asset information. For those cases where financial information was provided, the debt collection units could not enforce the collections on some accounts because the financial information was not accurate and the debtors could not pay. For example, the financial information submitted on one VA case showed that the debtor was

employed and had income to pay the debt. Subsequently, the debt collection unit learned that the debtor was unemployed and receiving public assistance. VA officials recognize that the financial information they obtain from a credit reporting service and include in their referral packages to the U.S. attorneys is not always reliable, and they told us that they are in the process of locating a better source for this information.

TABLE 3.1

Age of Accounts When Referred to Justice

	ED	VA	SBA	HUD	AGRI	Other	Total
Total cases reviewed	41	33	17	16	4	4	115
Cases containing information on age of delinquent accounts	40	30	12	13	1	4	100
Average years delinquent at time of referral	2.4	2.1	1.2	2.6	3.0	3.0	2.2

TABLE 3.2

Adequacy of the Information Provided by Agencies on Debtors' Ability to Pay

	ED	VA	SBA	HUD	AGRI	Other	Total
Cases reviewed	41	33	17	16	4	4	115
Employment data not provided							
Number of cases	5	14	1	4	1	1	26
Percent	12.2%	42.4%	5.9%	25.0%	25.0%	25.0%	22.6%
Salary data not provided							
Number of cases	33	16	4	8	2	1	64
Percent	80.5%	48.5%	23.5%	50.0%	50.0%	25.0%	55.7%
Asset data not provided							
Number of cases	28	13	2	4	1	3	51
Percent	68.3%	39.4%	11.8%	25.0%	25.0%	75.0%	44.3%

Under Justice guidelines, the U.S. attorneys are advised not to accept cases from the agencies if the financial information is incomplete; the financial information shows insufficient income and assets to enforce collections; the debt lacks sufficient documentation to obtain a court judgment; the statute of limitations has expired; or there is no current address on the debtor (i.e., addresses were not verified by agencies within 6 months of referrals).

Beginning in June 1985, the Executive Office for United States Attorneys started keeping records on the number of debt cases being declined and returned to the referring agencies for the above reasons. During the period October 1, 1985, through May 31, 1986, the Executive Office received reports from 63 of the 94 U.S. attorney offices on the number of cases declined. This information is presented in table 3.3 and shows that 580 cases (about 1.7 percent of all referrals), valued at about $6 million, were declined for litigation. The declined cases were returned to agencies mainly because Justice determined that the debtors did not have sufficient income or assets to enforce collections, or because the agencies did not provide (1) the documentation necessary to get a court judgment, (2) sufficient financial information to support the collectibility of the debt, and (3) current addresses on the debtors. A primary reason for returning the cases included in the "other" category was that the referring agency sent the claim to the U.S. attorney office in the district where the debtor did not reside.

TABLE 3.3

Cases Declined by Justice Because of Inadequate Agencies' Referral Packages During the Period October 1, 1985 thru May 31, 1986

Reasons	Cases Declined	
	Number	Amount
Lack of employment, salary, and/or asset information.	37	$228,447
Debtor does not have sufficient income or assets to enforce collections.	93	$682,779
No current address.	73	$226,328
Lack of documentation to support that a debt exists.	162	$1,490,832
Referral made after the Statute of Limitations Expired.	19	$108,693
Other	196	$3,188,164
Total cases declined	580	$5,925,243
Total cases referred	33,893	$457,754,346
Percent of cases declined	1.7%	

IMPEDIMENTS JUSTICE FACES IN LITIGATING AND COLLECTING DELINQUENT DEBTS

Once Justice accepts a case for litigation and collection, the internal and external factors which impede its attorneys' efforts vary depending on the type and size of the debt. The delinquent debts referred to Justice generally fall into two categories: large volume/small dollar and small volume/large dollar.

Generally, the cases referred to U.S. attorney offices by Education and VA represent the largest volume of cases. These cases are fairly routine in that they do not require extensive attorney time to prepare court papers for filing the claim. These small dollar cases, which as of December 31, 1985, averaged between $2,300 and $2,600 per case, are usually not contested by the debtor. As a result, assistant U.S. attorneys usually do not have to appear before a judicial officer to present the government's case. Even though the small dollar cases do not usually require much attorney time, collections on these debt cases can require considerable effort. Collection clerks, legal technicians, or paralegals have to work with the debtor to establish the terms for repaying debts not paid in full and have to monitor the established payment plans to ensure that the debtor does not violate the terms of the plan. If the debtor does not honor the plan and/or fails to respond to the U.S. attorney office's past due notice for payment, the legal technicians or paralegals need to be knowledgeable about state laws for garnishing debtor wages and bank accounts or attaching other property. In addition, to protect the government's interests, the legal technicians or paralegals need to be knowledgeable about state procedures for filing liens on debtor properties.

In contrast to the large volume/small dollar cases being referred to U.S. attorney offices, Justice litigation divisions and U.S. attorneys can handle a smaller volume of complex cases. Complex cases usually involve large dollar claims. These cases include SBA business loans, Agriculture commodity and farm loans, and IRS tax delinquencies. The litigative work on these cases can be complex and require considerable attorney time to investigate, prepare and present the government's case in court. In some of these cases, attorneys can spend considerable time (1) trying to locate debtor assets, (2) gathering evidence on whether the debtor illegally or fraudulently transferred property to avoid seizures, and (3) negotiating and working with debtors and other creditors to liquidate or manage assets in bankruptcy proceedings. The results of our review of large volume/small dollar and small volume/large dollar cases follow.

Large volume/small dollar cases

At U.S. attorney offices, debt collection units are to file a complaint against a debtor in the U.S. district court in a timely fashion generally within 30 days of receipt of the

referral package from the agency. The importance of moving quickly on these debt cases is to ensure, among other things, that (1) the government's interest is secure before the statute of limitations expires, (2) the agencies' information does not become outdated, and (3) the debtor knows that the government will take legal action if he/she fails to pay the amounts owed.

Once the suit is filed, the complaint and other required documents are mailed to the debtor by first-class mail. If the debtor does not respond within 20 days after the mailing, the unit should contact the U.S. Marshals Service to have it serve the complaint on the debtor. In those cases where the unit cannot locate the debtor through the mail or U.S. Marshals Service, the case is to be returned to the agency.

If the debtor is unable to repay a debt in full and offers to make monthly installment payments, he/she is asked to file a financial statement with the unit so the unit can determine what the installment terms should be. Once an agreement is reached, the debtor should sign a consent judgment which itemizes the principal, interest, penalties, and agency administrative charges. This judgment is to be filed with the court.

If the debtor fails to respond to the complaint served by the U.S. Marshals, the unit is to prepare the legal papers necessary to obtain a court judgment against the debtor so the unit can place liens against the debtor's real property, garnish wages, and/or attach other assets. In addition to recovering principal, interest, penalties, and the referring agency's administrative charges, certain court and U.S. Marshals fees can be charged to the debtor in accordance with 28 U.S.C. 1920-1923. However, Justice officials told us that these statutes do not authorize them to add debt collection unit and attorney costs to the amount owed by the debtor. Since provisions contained in the Debt Collection Act of 1982 allow agencies to charge administrative costs to the debtor, Justice officials said that they are currently studying how to apply this provision to administrative costs incurred in their collection efforts.

Filing complaints

To determine whether the debt collection units were taking timely action to file complaints against debtors, we judgmentally selected for review 118 cases at three of the U.S. attorney offices visited. At the fourth office visited (southern district of New York), we did not analyze the time it took the unit to file complaints because the dates the unit received the debt referral packages from the agency were not available. Our analysis of the 118 cases received during calendar years 1978 through 1985 at northern Illinois, northern Texas, and southern Ohio (see table 3.4) showed that the debt collection units took 30 days or less to file complaints on 56 cases (47 percent), took between 31 and 120 days to file complaints on 20 cases (17 percent), and took 121 days and longer to file complaints on 42

cases (36 percent). The units averaged 66, 413, and 162 days to file complaints.

TABLE 3.4

Length of Time Debt Collection Units Took to File Complaints During Calendar Years 1978 Thru 1985

Days elapsed from receipt to date filed	Number and Percent of Cases							
	Northern Illinois		Northern Texas		Southern Ohio		Total	
30 or less	26	59%	8	24%	22	54%	56	47%
31 to 60	3	7%	1	3%	5	12%	9	8%
61 to 90	4	9%	0	0%	2	5%	6	5%
91 to 120	4	9%	0	0%	1	2%	5	4%
121 & above	7	16%	24	73%	11	27%	42	36%
Total	44	100%	33	100%	41	100%	118	100%
Average days to file complaints	66		413		162			

At two of the four U.S. attorney offices (northern Texas and southern Ohio), about half of the cases we reviewed were sent to the offices before 1984. As shown in table 3.5, our analysis of cases showed that the time these two attorney offices took to file complaints has improved significantly.

TABLE 3.5

Comparison of Average Time Taken to File Complaints

	Northern Texas		Southern Ohio	
	Pre-1984	1984-1985	Pre-1984	1984-1985
Total cases	17	16	19	22
Average number of days debt collection units took to file complaints on referred debts	722	84	327	19

According to assistant U.S. attorneys and/or debt collection unit supervisors at these two districts, insufficient staff was the main reason cases were not acted on promptly in the past. Reasons cited by U.S. attorney office officials in the northern district of Texas for continuing delays in filing complaints are (1) an increased workload associated with collecting criminal fines and (2) use of collection staff to convert from a manual to an automated case management system.

Lack of timely action in filing complaints was also reported in 4 of the 35 internal evaluations conducted at U.S. attorney office's debt collection units during fiscal year 1985. The reasons given for this problem included inefficient use of staff, insufficient staff, lack of supervision, and inadequate training. Two of the units were taking on average 1-1/2 to 4-1/2 months to file complaints following receipt of the debt referral packages from the agencies. The other two units were cited for failing to act on about 2,600 Education and VA cases. For example, one of the units had initiated only seven suits during a 4-month period (April through July 1985) and had approximately 200 Education referrals in the files with no actions being taken at the time of the July 1985 study. These cases had been referred by Education as part of a special project started in November 1984 in which the U.S. attorneys were asked to take immediate court action when the claim was received. At the other unit, approximately 2,400 VA referrals were in filing cabinets and had not been reviewed to determine if the statute of limitations was nearing expiration and whether the claims complied with the Federal Claims Collection Standards.

According to a December 31, 1985, VA report on the status of cases at Justice, there were approximately 33,000 cases at the U.S. attorney offices. The VA report showed that the U.S. attorneys had not responded for over 6 months on what actions had been taken on about 13,400 (41 percent) of the referred cases.

Serving legal papers and obtaining court judgments

As mentioned in section 2, OMB reported in 1981 that U.S. attorneys' litigation and collection efforts were hampered by the limited availability of U.S. Marshals Service staff for serving legal papers and a heavily burdened court system which sometimes delayed the processing of debt cases. At three of the four U.S. attorney offices we visited (the exception being northern Texas), debt collection unit officials told us that they were experiencing delays in getting the U.S. Marshals Service to serve legal papers. At the northern Illinois district, the attorney in charge of the debt collection unit said that the problem may get worse because the Unit was advised by the U.S. Marshal in that district that, due to budget constraints, marshals can no longer work overtime or employ private process servers to serve complaints on the debtors. We discussed this problem with a U.S. Marshals Service headquarter's official, and he said that serving legal documents has the lowest priority of all the Service's

tasks performed. He also said that recent budget reductions have affected the timely serving of legal documents nationwide because the Service had to cut back on overtime hours and the hiring of part-time employees.

Our review of internal evaluations done at 35 debt collection units showed that 2 of the units were not following procedures authorizing them to use the mail to serve legal papers, which would help reduce the workload of the U.S. Marshals Service. The reason given by these two units for not using the mail was that it would be a waste of time because the debtors would not reply. At four U.S. attorney offices we visited, the mail was used to serve legal papers, and the attorney in charge of the northern Illinois debt collection unit told us that using the mail to serve complaints resulted in about a 50 percent response rate. This official also told us that private process servers would help alleviate the Marshals Service's workload, but lack of authority and current budget constraints preclude the U.S. attorney's office from using them.

Based on our discussions with debt collection officials at the four U.S. attorney offices visited and from our review of the 35 internal evaluations, there did not appear to be widespread delays in the federal courts' processing of cases. Two of the 35 evaluations did report some delays in obtaining court judgments that ranged from about 3 to 8 months after filing the complaints.

Since OMB's study, the courts have experienced substantial increases in large volume/small dollar cases (mostly defaulted student loans and veterans overpayments) which do not require extensive judicial activity and lend themselves to automation and economies of scale. For example, the Judiciary reported in its fiscal year 1987 budget justification that these types of cases increased from 31,682 cases in fiscal year 1982 to 59,609 cases in fiscal year 1985--an increase of 88 percent. To handle the current caseload, the Judiciary estimates it is using 91 clerks nationwide.

To get an indication of the impact that the large volume/small dollar cases were having on district courts, we contacted court clerks at 16 U.S. district courts that each handled more than 1,000 student loan and veterans' cases for the 12-month period ending March 31, 1986. As of July 31, 1986, 15 of the 16 clerks responded and told us that these cases are not being delayed by the courts or seriously impacting on court operations. Reasons cited included streamlined procedures, improved automation, and limited amount of judicial officer time to hear the cases. However, one clerk stated that his office had experienced problems in the past with processing cases because the court had received incorrect address information on the debtors, preventing the serving of legal documents. As a result, the court could not litigate about 2,000 cases and had to dismiss them.

Enforcing collections

The ultimate goal of each U.S. attorney's debt collection unit is to collect legally enforceable debts. In this regard the U.S. attorneys' internal evaluations showed that 30 out of 35 debt collection units (86 percent) experienced at least two or more major problems in collecting debts. The major findings of the 35 internal evaluations conducted in fiscal year 1985 follow:

--Debt collection units (1) were not following up on cases when the debtors failed to pay on a repayment plan or failed to provide financial information on their ability to pay the debt and (2) were not acting on cases transferred between U.S. attorney offices (21 out of 35 offices--60 percent).

--Debt collection units were accepting minimal monthly payments without verifying the debtor's financial ability to pay more and thus liquidate the debt faster (8 out of 35 offices--23 percent).

--Records kept by debt collection units were poor, making it difficult to determine what collection actions were taken or whether payments were received (23 out of 35 offices--66 percent).

--Interest on debts was either not added or not calculated correctly (11 out of 35 offices--31 percent).

--Debt collection units were either not placing liens on real property or not using available legal remedies to enforce collections such as wage garnishments or attachments of bank accounts and other personal property (9 out of 35 offices--26 percent).

The major reasons cited in the reports for collection problems included both external and internal factors, as follows:

--State statutes preclude debt collection units from enforcing collections on court judgments or create additional work for the unit to recover the debts (13 out of 35 offices--37 percent).

--Debt collection unit personnel were not adequately supervised (25 out of 35 offices--71 percent).

--Debt collection unit personnel need additional training (18 out of 35 offices--51 percent).

--Debt collection units need additional staff or need to use staff more efficiently (16 out of 35 offices--46 percent).

--Debt collection units lacked adequate plans and procedures (7 out of 35 offices--20 percent).

As discussed below, we found similar collection problems at the four U.S. attorney offices we visited.

In northern Illinois the assistant U.S. attorney responsible for debt collection told us that some Illinois statutes hamper the government's debt collection efforts. For example, this attorney told us that to obtain an Illinois wage garnishment, a wage deduction summons must be personally served on the employer, the maximum garnishment amount is 15 percent of gross wages, and the garnishment must be renewed and served every 8 weeks. Also, the attorney told us that debtor bank accounts involving the deposit of pension or retirement funds are exempt from nonwage garnishments and when the debtor is a co-owner of a joint bank account the other party can claim ownership of the money in the account, thus making garnishment difficult. In spite of these obstacles, our review of cases showed that the debt collection unit was using legal remedies to enforce collections.

Another problem we observed in northern Illinois was that unit personnel were not periodically monitoring the debtors' financial conditions to determine whether the debts could be liquidated sooner than the repayment plans initially established. Out of the 647 repayment plans on the books as of March 31, 1986, 336 plans (52 percent) involved monthly payments of $50 or less. Of these 336 plans, 23 cannot be paid off under present arrangements because the monthly amounts do not cover the interest on the debts. The Federal Claims Collection Standards state that monthly payments of less than $50 should only be accepted on the grounds of financial hardships or other extenuating circumstances, such as disability or illness. Justice procedures require that the installment payment plans should be reviewed at least every 6 months to 1 year to determine if the debtor can pay more and thus liquidate the debt faster. According to the attorney in charge of the unit, inability to hire staff was the reason why the debtors' financial conditions were not periodically monitored. The attorney also told us that the office's authority to buy credit reports was rescinded by Justice headquarters due to budget cuts.

At the northern district of Texas, debt collection unit officials said that state laws are a major impediment to enforcing collections. For example, officials said that in Texas debtor wages cannot be garnished; a single debtor's personal property valued at $15,000 or less is exempt from attachment (for a family the value is $30,000); and homestead laws prevent the forced sale of residential property, except in limited circumstances. Officials also said that besides state laws, other problems affecting their collection efforts include (1) a surge in agency referrals, (2) staff shortages, and (3) conversion from a manual to a computerized case management system. Regarding the latter, the debt collection supervisor

stated that this ongoing conversion diverted staff time away from enforcing collections.

In the southern district of New York, the attorney in charge of the debt collection unit said that New York state statutes do not prevent the collection of amounts owed the government. However, the attorney said that because New York state statutes have detailed requirements for identifying real property and recording liens in the county court where the property is located, it takes several weeks to record the judgment against the debtor's property.

A problem we observed at this office was that the unit had not calculated interest correctly on debts. The attorney in charge of the unit said that during the conversion from a manual to an automated case management system, clerks had made errors in entering interest rates into the system, and as miscalculations are discovered, corrections will be made to the records.

Officials at this office felt that another problem they had in the debt collection unit was that the unit was understaffed and could not handle the existing caseload. The debt collection unit attorney said that collection personnel should handle between 400 and 450 cases a year, not the more than 800 they currently handle.

Like Texas and Illinois, the assistant U.S. attorney in charge of the debt collection unit in the southern district of Ohio told us that Ohio statutes make it difficult to garnish debtor wages and attach assets. According to this attorney, garnishing debtor wages in Ohio creates an enormous amount of paperwork in that a separate garnishment order is required every pay period, the action can only be taken every 30 days, and only one garnishment is allowed at a time. Regarding the latter, the attorney said that if other creditors are attempting garnishment actions, the government's attempt to garnish does not take priority.

Besides the state law impediments, a debt collection unit official told us that as of January 1986, the unit had a large backlog of cases (742 out of 1,725 cases--43 percent) which had court judgments but had not been enforced by the unit. The attorney in charge of the unit advised us that before November 1985, the unit was understaffed creating this large backlog of cases. In November 1985, the unit hired another clerk who is working on the case backlog, and the attorney said the backlog will be processed by the end of 1986 or early 1987.

Amounts collected

Table 3.6 summarizes the cash and noncash collection efforts on delinquent debts referred by Education and VA during fiscal year 1985 by three of the four U.S. attorney offices visited. The northern district of Texas had the lowest recovery rate (2.8 percent) which Justice officials attributed to Texas state laws

limiting the debt collection unit's ability to enforce collections. The northern district of Illinois' recovery rate of 9.2 percent may be attributable to a number of factors including inaccurate financial information provided by the agencies on the collectibility of the debt and the large number of installment plans of $50 or less. Southern New York reports showed it had the highest recovery rate of the three districts (17.2 percent) which is better than the average recovery rate of 16.2 percent reported for all U.S. attorney offices in fiscal year 1985. We could not compute a recovery rate for the southern district of Ohio because the district was in the process of automating its records and did not have all the necessary information on its system.

TABLE 3.6

U.S.Attorney Collection Results for Debts Referred by Education and VA

Agencies	Fiscal Year 1985 Northern Illinois	Northern Texas	Southern New York	Southern Ohio
Beginning balance				
Education	$727,751	$1,664,387	$52,240	see
VA	$1,362,519	$822,608	$395,317	note a
Total	$2,090,270	$2,486,995	$447,557	—
New referrals				
Education	$2,511,020	$1,737,925	$525,032	see
VA	$948,401	$1,225,172	$213,529	note a
Total	$3,459,421	$2,963,097	$738,561	—
Total referrals				
Education	$3,238,771	$3,402,312	$577,272	see
VA	$2,310,920	$2,047,780	$608,846	note a
Total	$5,549,691	$5,450,092	$1,186,118	--
Cash & other recoveries				see note b
Education	$232,087	$115,405	$97,820	$59,029
VA	$279,501	$39,464	$105,692	$805,687
Total	$511,588	$154,869	$203,512	$864,716
Recovery rate	9.2%	2.8%	17.2%	--

Note a: Southern district of Ohio could not provide us with beginning and new referral balances by agency.

b: Southern district of Ohio collection amounts cover the period May 1985 through September 1985. Collection amounts for the first seven months of fiscal year 1985 by agency were not readily available.

Small volume/large dollar cases

As discussed in section 2, the litigation and/or collection of large dollar cases is handled either by Justice's litigation divisions (primarily the Civil and Tax Divisions) or by the U.S. attorney offices. To get an indication of Justice's progress and problems in litigating and collecting on these types of cases, we examined cases at the Justice Civil Division and two U.S. attorney offices--the southern district of New York and the northern district of Illinois. We did not review any cases being handled by Justice's Tax Division, but our analysis at the U.S. attorney offices did include some tax cases.

Litigation and collection actions by Justice's Civil Division

Justice's Civil Division handles debt collection cases over $200,000. These cases can be transferred to the appropriate U.S. attorney office for litigation and collection with final disposition authority remaining with the Civil Division. As of September 30, 1985, the Civil Division had 1,243 debt cases valued at about $4.5 billion recorded on its automated case management system.

We reviewed 23 cases valued at about $200 million--12 cases were closed and 11 cases were pending during fiscal year 1985. Of the cases reviewed, 10 involved bankruptcy matters, 3 involved foreclosures on property used as security for delinquent loans, and 8 involved enforced collections to attach debtors' assets. For the remaining two cases, the Civil Division was attempting to obtain court judgments on a grant overpayment and a loan default. Nine of the cases were referred by SBA, seven by Agriculture, three by the Federal Maritime Administration, two by HUD, and two by VA.

In 7 of the 12 closed cases reviewed, it took Justice from 2 months to 8 years to settle the claims. In the other five cases we could not determine from the files the length of time Justice took to settle the claims.

The 12 closed cases were valued at about $6.5 million. For 7 of the 12 cases, Justice recovered about $386,000 in cash and $525,000 in other recoveries such as property. The amount recovered for four cases was unknown, and the Civil Division recovered nothing for one case because the debtors were bankrupt.

At the time of our review, Justice records showed that the 11 pending cases valued at about $195 million had been pending from 1 to 11 years. Five of the cases were in bankruptcy proceedings (four Chapter 11 business reorganizations and one Chapter 7 liquidation); five cases had court judgments which Justice was trying to collect; and one case involved a completed foreclosure in which Justice was still litigating the administrative expenses claimed by the court appointed officers. Of the five cases that the Civil Division was trying to collect,

four had been referred to the appropriate U.S. attorney office for collection and the other case remained at the Civil Division for collection. As of July 1986, our review of the case files showed that Justice had collected cash of about $10.7 million (5.5 percent) on the 11 pending cases. There were no noncash recoveries at the time of review. According to Justice officials, as of September 1986, the Department has entered into agreements with the debtors in some of these 11 pending cases to recover cash and property totaling about $125 million.

The following examples illustrate some of the problems we observed that the Civil Division is experiencing in collecting large dollar claims.

In one case involving a judgment of about $90,000 plus interest, a Civil Division attorney requested the U.S. attorney's office on six occasions (from May 1978 through December 1982) to get a court order to obtain debtor funds of about $11,000 held in an interest bearing bank account, which was frozen at the government's request. During this period, Justice accepted a compromise offer from the debtor for $75,000 plus interest. In addition to this amount, Justice advised the debtor that it still planned to recover the $11,000 held in the bank account. On November 1985, the debtor defaulted on the compromise agreement after paying about $83,000 including interest. According to information provided by Justice officials, the U.S. attorney's office had not obtained a court order as of September 1986 to get the money out of the bank account because of higher priority work. According to the assistant U.S. attorney handling the case, Justice will attempt to collect all of the remaining amounts owed if the compromise agreement is not paid.

In a Chapter 11 bankruptcy proceeding, Justice made an arrangement with the debtor to pay the interest on the $20 million debt in monthly installments of $83,000. During the period June 1985 through February 1986, the debtor made nine payments totaling about $750,000. In March 1986, the debtor stopped making payments, and Justice filed a motion in the court to allow the government to liquidate the debtor's assets, which served as collateral for the debt. This collateral was estimated to be worth about $7 million. Because the debtor filed a Chapter 11 rather than a Chapter 7 bankruptcy, Justice was precluded from liquidating assets sooner. (See p. 54 for a description of Chapter 7 and 11 bankruptcy filings.) In September 1986 Justice's motion was granted, and the assets were foreclosed. At the sale the government recovered $6 million.

Litigation and collection actions at two U.S. attorney offices

At the southern district of New York, civil unit attorneys, who litigate the large dollar cases, are responsible for establishing and monitoring the repayments of the debts. In order to monitor debt payments, the office has an automated case management system which, among other things, has information on

the attorneys handling the cases and the status of the cases (open or closed, amount owed, and repayment histories). This system showed that as of December 31, 1985, the office was responsible for collecting on 756 cases valued at about $66 million. Of these 756 cases, 187 cases (25 percent) were valued at $64 million, or 97 percent of the total $66 million.

We reviewed the eight largest cases which totaled about $42 million. The cases involved claims by IRS (three cases), HUD (one case), Federal Deposit Insurance Corporation (one case), Department of Treasury (one case), SBA (one case), and GSA (one case). Our analysis showed that four of the eight cases were settled between 1982 and 1984 but were recorded on the automated system as active, thus overstating the amount to be collected by $25 million. In two of the four cases, we had to contact former assistant U.S. attorneys who handled the cases to determine that the cases were closed because we either could not identify who was assigned to the case or because the civil unit attorney assigned was not familiar with the case.

We made a further analysis of the management report showing pending civil collection cases by attorney and identified 127 cases totaling $12 million that either identified former assistant U.S. attorneys as being assigned to cases (47 cases) or did not identify an attorney assigned to the case (80 cases). We discussed the attorney assignments and current listing of outstanding debts with the civil unit head. He agreed that better monitoring of attorney assignments and compliance with established procedures for closing cases was necessary. He said that he would remind the attorneys of established procedures for closing cases.

The other four large dollar cases we reviewed were open for about 5 to 14 years. In one case the assistant U.S. attorney assigned to the case told us that Justice would not accept the debtor's compromise offer because it is suspected that the debtor is hiding assets. In another case the attorney was awaiting approval from Justice's Civil Division on a $1.2 million compromise negotiated with the debtor on a debt of $12 million. Compromises of $200,000 or greater must be approved by Justice headquarters. The negotiated amount was arrived at after the attorney identified $1.4 million in available assets. Countersuits by the debtor and extensive litigation were also among the considerations for settling the case. On April 25, 1986, after several months of negotiations between Justice and its client agencies, the Civil Division approved the compromise. This case was referred to the Civil Division in December 1985. According to Justice Civil Division officials, as of September 1986 they have not collected on the compromise agreement and they do not know if the debtor can pay the compromise amount. In the other two cases, attorneys were awaiting payments from a deceased debtor's estate (one case) and awaiting the scheduled settlement of a claim (one case).

Although the automated case management system has information on the payment histories of the cases, the office did not generate a periodic report showing this information. We requested special reports on payment histories for open cases to determine, for debts exceeding $10,000, when the last payments were made and the length of time required to liquidate the debts based on the amounts being paid. From these reports, dated April 1986, we identified 39 cases totaling about $3.9 million which had payment histories. In 10 of these cases, valued at $2.7 million, a payment had not been made in 10 months or more. The remaining 29 cases were valued at $1.2 million and payments had been made within the last 9 months--26 within 1 to 3 months and 3 within 5 to 9 months. Our analysis of these 29 cases showed that 17 cases valued at $730,000 were opened before 1985. One of these cases valued at about $94,000 had a monthly installment of $25 and would take over 300 years to liquidate. The other 16 cases would take on average about 17 years to liquidate. The remaining 12 cases valued at about $470,000 were opened after 1985 and would take on average about 5 years to liquidate. This analysis indicates that the average time to liquidate debts of $10,000 or more is improving at this office.

At the northern district of Illinois, the automated case management system showed that as of December 31, 1985, the debt collection unit was responsible for 2,411 civil debt cases valued at about $19.6 million. Of the 2,411 cases, 118 (about 5 percent) were valued at about $14.3 million (about 73 percent of the total $19.6 million). Our analysis of these large dollar cases showed that 40 (34 percent) were IRS tax cases. We examined five IRS cases valued at about $1.2 million to determine what actions were being taken to liquidate the debt. We found that the cases had been on the books from 7 to 21 years with the last recorded follow-up actions ranging from January 1980 to December 1984. The last cited follow-up actions in the files showed that (1) the debtors could not be located in two cases, (2) the debtor was deceased in one case, (3) IRS was contacted in one case to determine whether it could collect some of the debt, and (4) another U.S. attorney was contacted in one case regarding a related investigation involving the debtor.

We asked the assistant U.S. attorney responsible for overseeing the debt collection activities at this office why these five cases remained in the automated system as active cases when it appeared that some of them should have been returned to IRS. The attorney told us that the debt collection unit cannot close tax cases unless the unit receives approval from Justice's Tax Division. The attorney agreed that some of these old cases should be returned to IRS. A Tax Division official also agreed that some of these cases should have been closed and returned to IRS. A Tax Division official also said that a recent directive effective in May 1986 increased the authority of U.S. attorneys to settle cases up to $200,000 without referring them back to the Tax Division. He said that this change will enable U.S. attorneys to work directly with the local IRS office in handling the disposition of the vast majority of tax cases with Justice.

SECTION 4

ACTIONS THAT COULD IMPROVE CIVIL DEBT COLLECTION

CHANGES BEING CONSIDERED BY THE CONGRESS AND JUSTICE TO IMPROVE THE DEBT COLLECTION PROCESS

The Congress has enacted important legislation (the Debt Collection Act of 1982 and The Deficit Reduction Act of 1984) that has provided federal agencies additional tools to collect debts. The Congress is also considering legislation which will (1) allow Justice to use private attorneys to help in the litigation and collection of debts and (2) provide budgetary incentives for improved debt collection and credit management. In addition Justice is (1) considering VA's request to raise the dollar limit for cases that can be litigated by VA attorneys; (2) drafting a bill that would, among other things, minimize the impact state laws and procedures have on the federal government's debt collection efforts; and (3) working with IRS to include criminal fines collections in the income tax refund offset program for tax year 1986. Information we developed during this review concerning these planned actions follows.

USE OF AGENCY AND PRIVATE ATTORNEYS TO LITIGATE DEBTS

As noted in section 3, the majority of debt cases referred to U.S. attorney offices for litigation and collection are Education student loan defaults and VA overpayments. According to the officials we interviewed and internal evaluations made of the U.S. attorney offices' debt collection units, a major reason for delays in litigating and collecting these debts is insufficient staff to handle the workload. Because most of these cases are usually uncontested, limited attorney time is required to process them. Most of the workload on these cases is done by paralegals and collection clerks.

Several bills have been introduced that would authorize Justice to contract with private attorneys (H.R. 979, H.R. 3342, H.R. 4659, S. 209, and S. 1658). Under these bills, agencies could refer delinquent debts to private attorneys for litigation and collection. Using private attorneys, especially for the large volume, noncomplex debt referrals, provides an alternative to the hiring of additional full time staff.

We sent letters to the Chief Judges in 16 federal district courts that handled over 1,000 Education and VA cases for the 12-month period ending March 31, 1986, to obtain their views on private and agency attorneys litigating these cases as well as the larger dollar cases dealing with SBA and HUD foreclosures. Thirteen of the 16 Chief Judges responded to our inquiry. With regard to Education and VA type cases, one did not have an opinion on which attorneys should be used, two believed U.S. attorneys should handle these cases, one opposed the use of private attorneys, and nine believed that private and/or agency attorneys could handle these cases. However, four of the nine expressed reservations about using private attorneys. These reservations concerned increased cost that might be charged the government and tactics that may be used by private attorneys that

could negatively impact on the government. One Chief Judge who did not express reservations stated:

> "To the best of my knowledge a delinquent debt case has never gone to trial in [my district] ... although thousands of them have been filed over the past few years. The matters can and generally are handled by a paralegal. There is no reason why private counsel or agency attorneys cannot handle these cases before our court."

With regard to the more complex large dollar cases, 9 of the 13 Chief Judges stated that they believe agency attorneys could successfully argue for the government's interest before the court, two opposed use of agency attorneys, and two had no opinion. For example, one of the Chief Judges who supported the use of agency attorneys stated that "agency attorneys are usually better able to handle the matters and generally have more settlement authority...." Another Chief Judge stated that "... agency counsel are better versed in the complexities of the statutory or regulatory scheme... [on these types of cases]." As discussed in section 5, Justice relies on HUD and SBA attorneys to litigate cases on behalf of their agencies.

Nine of the 13 Chief Judges felt that private attorneys could also handle these complex cases for the government. However, four of these nine Chief Judges expressed reservations similar to those mentioned previously, and one was concerned about potential patronage abuse. Two Chief Judges were opposed to the use of private attorneys and two did not comment on the merits of private attorneys to handle large dollar cases. One Chief Judge opposing private and agency attorneys stated that:

> "I would be very reluctant to agree that private attorneys could handle the more complex cases. The U.S. Attorneys assigned these cases develop expertise in these matters and I believe have the ability to handle these cases much more expeditiously than private counsel or agency attorneys. It would be my preference that the U.S. Attorney continue to represent the government in these cases."

In May 1986, a Justice official testified in support of legislation (H.R. 979, H.R. 3342, and S. 209) that would permit the Attorney General to enter into contracts with private attorneys to litigate outstanding debt collection cases and to pay such counsels out of the proceeds they collect. GAO also supports legislative proposals to allow private counsels to litigate the government's debts. In our prior bill comments (the most recent dated February 18, 1986, on S.1658), we said that if properly supervised, the use of private attorneys, paid on a contingency fee basis, can be a useful and profitable complement to the collection tools currently available to the government.

In our recent report to Senator Dennis DeConcini, we also recommended the use of private attorneys. Education officials told us that they support the use of private attorneys to litigate and collect federally insured and national direct student loan defaults because they do not have the staff or the field structure to handle these cases.

Since 1980, VA's General Counsel has had authority to litigate and collect VA's debts of $1,200 or less. From May 1980 to October 1985, VA counsels handled about 500,000 accounts valued at $280 million and reported collections of about $46 million (16.4 percent).

VA officials told us that VA has recently negotiated a tentative agreement with Justice to litigate VA's debts up to $5,000. They told us that their regional office structure was well suited to litigating their own cases because they have 58 regional offices located in many of the same cities where U.S. attorneys are located. They also believe that they can handle the increased workload within their existing staffing levels since they will be using a contractor to collect debts below $600 by nonjudicial means. A Justice official advised us in July 1986 that the tentative agreement with VA had not been officially approved but should be shortly. VA officials said that as a result of this agreement, future referrals to Justice will be drastically reduced. They provided us information which showed that 94 percent of VA's debts fall below $5,000.

BUDGETARY INCENTIVES TO FINANCE THE DEBT COLLECTION EFFORT

Another alternative being considered as a way of improving the government's debt collection practices is to provide budgetary incentives to federal agencies. As discussed in section 3, the Marshals Service has been hampered in serving legal documents due to a lack of resources, and U.S. attorneys have been unable to (1) use private process servers, (2) automate debt collection operations, and (3) obtain credit reports because of budget constraints. In addition, U.S. attorney's internal evaluations showed that additional staff and training was needed.

We have previously commented on pending legislative proposals to provide budgetary incentives for improved debt collection and credit management and have stated that the bills raise complex issues regarding agency programs that the Congress will have to resolve before they are adopted. Recently, we commented on H.R. 4659, which would permit federal agencies to keep part of the funds collected on delinquent debts to be used for their programs. We suggested that consideration might be given to allowing agencies to use a portion of collections in excess of targets for improving debt collection operations and systems.

As part of its draft Uniform Federal Debt Collection Bill, Justice has included a provision called "Incentive Funding" which would allow for a flat 15 percent of all money collected to be used to supplement the budget of the Executive Office for the United States Attorneys for their debt collection program. Under the proposed provision, money recovered would be returned to the individual 94 U.S. attorney offices to promote increased collections. The draft legislation, which would also allow Justice to recover from the debtor its attorney fees (up to $10,000), is currently being circulated for comments within the Department. Justice officials told us they have not established a date for submitting the draft legislation to the Congress.

MINIMIZING THE IMPACT STATE LAWS HAVE ON DEBT COLLECTION

Justice officials told us that the diverse and varied state laws and procedures result in inequitable and inconsistent treatment of federal debtors and impede the efficient and maximum recovery of money owed to the United States. According to them, state laws can preclude the government from garnishing wages (Texas), limit the frequency and amount of garnishments (Ohio), and impede the placement of liens on property (New York). They believe there is a need to establish consistent procedures and practices for collecting debts to ensure that the federal debtors cannot avoid paying their debts simply by the circumstances of the state law where the debtors live. As a result, Justice is working on provisions to include in its draft Uniform Federal Debt Collection Bill that would minimize state law restrictions and the negative impact they have on government collection efforts. For example, Justice would like to establish uniform property and earnings exemptions so that federal debtors could be treated equally. In discussing the draft proposal, the U.S. Attorney for the northern district of Illinois said that this act would allow the government to reach more assets for collection in Illinois.

USE OF THE INCOME TAX REFUND OFFSET PROGRAM TO RECOVER DELINQUENT DEBTS REFERRED TO JUSTICE

As discussed in section 2, the five major credit agencies covered in this review participated in the first year of the IRS tax refund offset program and have reported some promising results. For example, Education and VA reported that they collected $130.3 million in the first year. During the past 2-1/4 years (March 1984 through June 1986), Justice reported that it collected $38.9 million on debts referred by these two agencies, which is $91.4 million less than what was collected under the income tax offset program. Justice is currently planning to use the income tax offset program to collect criminal fines.

We asked OMB and Justice officials about using the offset program to collect those delinquent debts that agencies participating in the program had referred to Justice. OMB and

Justice officials said that this idea had merit and would be considered. However, a Justice official expressed concern that Justice may inappropriately submit cases to IRS for income tax refund offset for which the debtor is paying under an installment plan. He explained that inappropriate referrals to IRS could occur because Justice's collections information on the amounts still owed by debtors is not always current.

SECTION 5

DESCRIPTION OF DEBTS OWED

TO

FIVE MAJOR CREDIT AGENCIES

This section provides information on the composition and characteristics of debts held by Agriculture, Education, HUD, SBA, and VA; the types of debts being referred by these agencies to Justice for litigation and enforced collection; and the potential debts that could be referred to Justice in the near future. This information is based completely on discussions with agency officials and review of agency and Treasury financial reports.

DEPARTMENT OF AGRICULTURE

As table 5.1 shows, most debts originating from Agriculture's program activities are composed of loans and accounts receivable from three of its agencies--the Farmers Home Administration, the Commodity Credit Corporation, and the Rural Electrification Administration. Referrals to Justice are made through Agriculture's 22 General Counsel field offices. The Farmers Home Administration makes loans from three revolving funds. The Agriculture Credit Insurance fund primarily provides farm ownership and operating loans, emergency disaster loans, economic emergency loans, and soil and water loans to individual farmers who could not otherwise obtain reasonable financing from commercial lenders. The Rural Housing Insurance Fund provides loans to moderate and low-income families for building, buying, and repairing homes and for buying and improving building sites. The Rural Development Insurance Fund provides loans to associations and public and private organizations for developing sewer, water, and waste systems. The accounts receivables for these three programs largely consist of interest due on the loans.

Many of the Farmers Home Administration delinquent loan referrals to Justice (19,037 cases as of December 31, 1985) are accounts where the debtors have filed for bankruptcy in a U.S. bankruptcy court. Bankruptcy filings prevent the government and other creditors from collecting on money owed until the bankruptcy court appoints and/or approves a trustee to liquidate debtor's assets (Chapter 7 bankruptcies) and/or manage the repayment of the debtor's obligations (Chapter 13 bankruptcies). A debtor may also file a Chapter 11 case in a bankruptcy court. In Chapter 11 cases, debtors can file a plan laying out how they will proceed in paying creditors, and they are allowed a great deal of flexibility in establishing such plans. The court routinely appoints a creditors' committee which oversees the formulation and execution of the plan in an attempt to recover amounts owed. The bankruptcy process can take from several months to years before creditors can receive partial or full payment on amounts due.

Besides bankruptcy referrals, Agriculture also sends some cases to Justice requesting foreclosure on farm property. These foreclosures involve the sale of the property that secured the loan, with the proceeds from the sale applied to the debts owed Agriculture. Agriculture initiates foreclosure actions only after all other possibilities are exhausted, such as providing

additional loans and renegotiating the loan payments. According to Agriculture officials, they expect that foreclosure actions will increase in the near future because of recent changes in Agriculture's regulations that could expedite foreclosure actions against farm property.

The Commodity Credit Corporation supports the price of agricultural commodities through loans, purchase and payment programs, and assists the agriculture industry in maintaining adequate storage, distribution, and processing facilities for crops. Many of the Corporation's referrals to Justice (1,087 cases as of December 31, 1985) involve bankruptcy claims and claims for commodity shortages.

The Rural Electrification Administration assists electric and telephone cooperatives to develop and improve utility services to rural areas through direct and guaranteed loans. The Administration's accounts receivables represent mainly principal and interest on assumed loans. As of December 31, 1985, one large case was pending at Justice involving a foreclosure matter.

Other miscellaneous debts shown in table 5.1 come from a variety of Agriculture programs involving crop production and insurance; timber sales; and grading, testing, and inspection services. These referrals to Justice (3,097 cases as of December 31, 1985) include, among other things, bankruptcy cases as well as claims to recover government payments.

TABLE 5.1

Agriculture Receivables and Delinquencies by Program

Agency or Program	Loans receivables (millions)	Loans receivables delinquent (millions)	Accounts receivables (millions)	Accounts receivables delinquent (millions)
Farmers Home				
Agricultural Credit	$28,393.9	$3,785.7	$3,983.8	$2,466.6
Rural Housing	$29,735.5	$111.4	$310.7	$176.4
Rural Development	$8,713.5	$1.4	$344.0	$11.9
Commodity Credit	$32,402.0	$485.8	$1,881.9	$210.7
Rural Electrification	$35,095.9	$0.0	$1,341.7	$1,231.5
Other	$28.3	$2.0	$627.7	$497.6
Total	$134,369.1	$4,386.3	$8,489.8	$4,594.7

Note: Loans and accounts receivables data for specific agencies are as of December 31, 1985. Receivables data on other programs are as of September 30, 1985. Accounts receivables represent primarily interest on the loans receivables.

Source: Information extracted from Treasury and Agriculture reports.

DEPARTMENT OF EDUCATION

Table 5.2 shows that the majority of Education's debts result from three programs: Guaranteed Student Loan, Federally Insured Student Loan, and National Direct Student Loan. These loan programs provide financial assistance to students seeking a postsecondary education. Under the Guaranteed Student Loan Program, loans are insured by a state or private nonprofit agency. Upon default, if the debt cannot be collected, the lender (such as a commercial bank or savings and loan association) is reimbursed by the guaranty agency, which in turn is reimbursed by Education. Because guaranty agencies use their own attorneys, state attorneys, or private counsels to litigate and collect the loans from the defaulters, Education does not plan to refer these cases to Justice. The loan amounts shown on table 5.2 for this program represent money reimbursed to the guaranty agencies and amounts advanced to new guaranty agencies to assist them in starting loan guaranty operations. The amounts due are reduced by that portion of guaranty agency collections which are remitted back to Education.

Under the other two student loan programs, Education insures the loans made by participating lending institutions (Federally Insured Student Loan Program) or assists participating schools in establishing revolving funds from which they make loans (National Direct Student Loan Program). Since July 1984, no new Federally Insured Student Loans have been made because students have access to loans under the Guaranteed Student Loan Program. Because Education assumes responsibility for defaulted loans after the lending institutions and schools follow Education's collection procedures, its accounting reports to the Department of the Treasury show all loans as being delinquent.

The large number of cases Education has referred to U.S. attorneys (about 32,000 outstanding as of December 31, 1985) for litigation and enforced collection average about $2,600 each and generally are not complex and time consuming with regard to obtaining a court order to pay the debt. According to Education officials, they estimate that the Department could send Justice about 40,000 additional defaulted student loans during fiscal year 1987 if they had available staff to prepare the packages for Justice. Currently, they said Education is devoting the majority of its staff resources to recover defaulted loans through the IRS tax offset program. Education officials also told us that there are about 950,000 Federally Insured Student Loans and National Direct Student Loans still in the portfolios of lending institutions and schools. On the basis of past referral experience with these loans, the officials estimated that about another 40,000 loans could be referred to U.S. attorneys in the future.

Other debts owed Education come from loans to colleges for the construction of educational housing and academic facilities; loans to Cuban Nationals without sufficient resources to finance their higher education; receivables from students who were given

funds to study law enforcement; and grant payments to educational institutions that were disallowed by audits. According to Education officials, the Department attempts to renegotiate payment plans with institutions who are delinquent in paying off their loans, and these efforts have reduced the need to refer such cases to Justice. As of September 30, 1985, Education's records showed that two cases have been referred to Justice for litigation. With regard to other educational student loans, officials said that the programs are no longer funded. On many of these defaulted loans, they also stated that the statute of limitations has expired, and Education is attempting to collect on them without referring the cases to Justice. For grant payments which were disallowed by audit, officials said that the Department has an appeals process to settle these claims administratively.

TABLE 5.2

Education Receivables and Delinquencies by Program

Program	Loans receivables (millions)	Loans receivables delinquent (millions)	Accounts receivables (millions)	Accounts receivables delinquent (millions)
Guaranteed Student Loan	$2,954.3	$2,815.6	$1.9	$1.9
Federally Insured Student Loan	$685.8	$685.8	$83.6	$83.6
National Direct Student Loan				
Assigned Loans	$464.1	$464.1	$14.8	$14.8
Federal Contribution	$4,677.4	$0.0	$0.0	$0.0
Other	$2,713.1	$143.9	$266.6	$222.5
Total	$11,494.7	$4,109.4	$366.9	$322.8

Note: Loans and accounts receivables data on specific loan programs are as of March 31, 1986. Receivables data on other programs are as of September 30, 1985. According to Education officials, the Guaranteed Student Loan accounts receivables represent insurance premiums due from lending institutions. With regard to the other two student loan programs, Education officials told us that the accounts receivables amounts represent interest on defaulted loans. Not shown in the table is an estimated $250 million in accrued interest on Federally Insured Student loans which, according to Education officials, is payable but not due within the next 12 months.

Source: Information extracted from Treasury and Education reports.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The Federal Housing Administration (FHA) holds many of the debts owed HUD (see table 5.3). Through a revolving fund, this Administration operates three major insurance programs for insuring single-family mortgages, multifamily mortgages, and Title I home improvement and manufactured housing (such as mobile home) loans. Under the single-family mortgage program, FHA has entered into arrangements to insure loans made by approved mortgage lenders to finance the purchase of individual residences. When homeowners default on their mortgages, FHA under certain circumstances must accept the mortgage for subsequent collection. In those instances where the mortgage is not repaid, FHA initiates foreclosure actions through a contract it has with a private foreclosing agent. In situations where FHA is not required to accept mortgages, the lending institutions can foreclose on the property when the homeowners default. Because FHA relies heavily on the private sector to litigate and enforce collections on single family mortgages, its referrals to Justice have been minimal, and according to agency officials, future referrals to Justice are not expected to increase.

Under the multifamily mortgage insurance program, FHA insures mortgages made by mortgage lenders to partnerships and corporations created for the purpose of constructing and managing multifamily dwellings. When defaults occur in this program, FHA accepts the mortgage for collection from the approved lender and can subsequently refer multifamily mortgages to Justice for foreclosure. The majority of cases now are foreclosed nonjudicially under existing state laws or by foreclosure commissioners. As of July 1986, 155 multifamily mortgages have been referred to the HUD General Counsel. Of these referrals, 72 were handled by foreclosure commissioners, 40 were handled nonjudicially under state laws, two cases involved transfers of deeds to parties willing to assume the mortgage, and 41 were handled judicially. HUD officials informed us that they expect an even greater reliance on the use of nonjudicial foreclosure remedies.

Title I delinquencies represent defaulted notes that FHA has insured and assumed from lending institutions. An FHA official informed us that 7,000 defaulted notes were referred to HUD's General Counsel for subsequent transfer to Justice. HUD's General Counsel office could not provide us, at the time of our review, with an estimate on how many Title I defaults had been referred to Justice. Generally, the cases HUD sends to Justice are requests to obtain judgments so that enforced collections can be taken. In Title I defaults HUD officials told us that several U.S. attorneys have appointed HUD counsels as special assistant U.S. attorneys to handle the cases. HUD does not send Title I defaults involving bankruptcy matters to Justice because it has determined that the debtor has no assets and the case warrants no further collection actions.

In addition to debts owed FHA, HUD is owed money from loans made to nonprofit organizations and individuals for the planning, development, and construction of elderly, handicapped, and low-income housing. Rehabilitation loans for residential and nonresidential property are given to low-and moderate-income families and communities and are made in conjunction with other HUD grant programs which aid neighborhood development. Rehabilitation loans account for a large part of the referrals to Justice (763 cases outstanding as of March 31, 1986). The Management and Liquidation Functions Fund holds defaulted single and multifamily housing mortgages and loans until payment arrangements can be made with the debtors or until the properties can be sold by HUD. Amounts due from other activities listed in the tables include grant overpayments and disallowed payments discovered by audits.

TABLE 5.3

HUD Receivables and Delinquencies by Program

Agency or Program	Loans receivables (millions)	Loans receivables delinquent (millions)	Accounts receivables (millions)	Accounts receivables delinquent (millions)
FHA				
Single-family mortgages	$1,137.2	$31.5	$788.9	$330.9
Multifamily mortgages	$2,867.6	$83.7	$352.8	$159.2
Title I	$225.1	$115.3	$63.3	$61.5
Elderly and Handicapped Loan	$5,919.9	$1.6	$66.5	$24.4
Low Rent Housing	$14,984.9	$4.3	$954.3	$1.7
Rehabilitation Loan	$724.4	$22.1	$14.3	$6.3
Management and Liquidation Functions Fund	$1,468.0	$13.1	$12.1	$2.3
Other	$374.2	$5.3	$57.6	$33.1
Total	$27,701.3	$276.9	$2,309.8	$619.4

Note: FHA, Elderly and Handicapped, Low Rent Housing, and Rehabilitation Programs' receivables data are as of March 31, 1986. Management and Liquidation Functions Fund data are as of December 31, 1985, and data on other programs are as of September 30, 1985. Accounts receivables in many of the programs represent interest on loans.

Source: Information extracted from Treasury and HUD reports.

SMALL BUSINESS ADMINISTRATION

The SBA's Business Loan and Investment Fund and Disaster Loan Fund (see table 5.4) account for the majority of the outstanding debts owed the agency. The Business Loan and Investment Fund is a revolving fund that provides financing in the form of direct loans or loan guarantees to help small businesses who are unable to obtain loans from private sources. These loans and loan guarantees are given to help finance plant and capital equipment improvements as well as provide working capital for business operations. Under the Disaster Loan Fund, victims can receive direct loans to repair and replace their homes, farms, and businesses damaged by floods, riots, and other catastrophes. The accounts receivables for these two programs consist primarily of interest and fees charged on the loans and the estimated value of recovered assets on loan defaults that are awaiting sale by SBA. As of December 31, 1985, 11,105 cases (6,076 being handled by Justice attorneys and 5,029 being handled by SBA attorneys) involving defaulted business and disaster loans were being litigated. These cases involve bankruptcy and foreclosure matters as well as suits to recover amounts where liquidated assets did not satisfy the amount of debt owed by the borrower.

According to SBA officials, about half of all defaulted loans are bankruptcy cases, which are frequently handled by SBA attorneys. Of the 300 SBA attorneys nationwide, officials told us that 200 are actively involved in claims collections and litigation. As of September 30, 1985, U.S. attorneys have appointed 55 of the 200 SBA attorneys as Special Assistant United States Attorneys to assist Justice in the litigation of SBA cases because of their expertise in bankruptcy matters and the need for additional attorneys to handle the caseload. For some of their guaranteed loans, SBA has arrangements with its approved lending institutions for them to use private counsels to litigate and collect defaulted loans. As of December 31, 1985, 1,754 cases are with private counsels. According to SBA officials, business and disaster loans requiring litigation and/or enforced collection are expected to remain at about 12,000 cases annually.

Surety bond guaranties include payments SBA has made to bond companies when small business contractors fail to perform work. SBA officials said that these debts are not referred to Justice because litigation is handled by attorneys representing the bonding companies.

TABLE 5.4

SBA Receivables and Delinquencies by Program

Program	Loans receivables (millions)	Loans receivables delinquent (millions)	Accounts receivables (millions)	Accounts receivables delinquent (millions)
Business Loan and Investment Fund	$3,118.4	$1,669.1	$669.1	$304.4
Disaster Loan Fund	$4,305.0	$745.2	$149.5	$57.7
Surety Bond Guaranty	$0.0	$0.0	$2.3	$1.7
Total	$7,423.4	$2,414.3	$820.9	$363.8

Note: Business Loan and Investment, and Disaster Loan funds receivables data are as of March 31, 1986. Accounts receivables data on the Surety Bond Guaranty Program are as of September 30, 1985.

Source: Information extracted from SBA reports.

VETERANS ADMINISTRATION

VA operates a variety of benefit programs that assist veterans, their dependents, and survivors in the areas of education, housing, medical care, insurance, and pensions. As table 5.5 shows, three of the benefit programs account for the majority of delinquent debts--Loan Guaranty, Readjustment Benefits, and Compensation and Pensions programs. Loan Guaranty Program debts arise from the default and foreclosure of guaranteed home and manufactured home loans. In the event of the foreclosure of home loans, VA usually (approximately 85 percent of the time) acquires the property securing the loan and pays the lender the total amount of the indebtedness. A debt is then established against the veteran for the difference between the amount paid by VA and the amount VA realized on the sale of the property. In the remaining cases VA pays the lender's claim under the guaranty agreement (maximum of $27,500) and does not acquire the property. Amounts paid in these circumstances also becomes a debt against the veteran. Similarly in manufactured home loan cases, VA pays a claim, which becomes the debt, but does not acquire the manufactured home unit.

All monies paid to lenders come from VA's Loan Guaranty Revolving Fund. All funds collected from the subsequent sale of acquired properties are deposited into the revolving fund. As of March 31, 1986, Justice had about 2,600 outstanding cases from this program.

The Readjustment Benefits and the Compensation and Pensions programs provide rehabilitation, educational, and income security assistance to eligible veterans and dependents. Amounts owed from these programs represent benefit overpayments generally caused when (1) recipients fail to notify the VA of changes in their eligibility status, (2) the VA does not process eligibility changes promptly, and (3) educational institutions fail to notify VA of changes in approved courses. The large number of overpayments cases VA referred to U.S. attorneys (about 25,400 outstanding as of March 31, 1986) involve small dollar amounts. These cases are generally not contested in court, and the U.S. attorneys generally will obtain a court order directing recipients to pay. Subsequent to the order the government could pursue garnishments and other judicial remedies.

Other significant delinquent debts are contained in the Education Loan, Direct Loan, and Medical Care programs. The Educational Loan Program, which is being phased out, provides loans up to $2,500 per academic period to post-Vietnam veterans and their dependents for school tuition and for flight training. As of March 31, 1986, about 5,000 cases were pending at Justice. The Direct Loan Program provides loans to handicapped veterans, which can be used to purchase or repair the beneficiary's residence. The accounts receivables for this program represent interest on these loans. Only a few accounts have been referred to Justice from this program. Medical Care Program debts occur when ineligible persons are treated on an emergency basis at veterans hospitals and do not have medical insurance to cover the service. VA had 240 Medical Care Program cases pending at Justice as of September 30, 1985.

TABLE 5.5

VA Receivables and Delinquencies by Program

Program	Loans receivables (millions)	Loans receivables delinquent (millions)	Accounts receivables (millions)	Accounts receivables delinquent (millions)
Loan Guaranty	$1,222.7	$459.5	$1,048.0	$73.8
National Service Life Insurance	$1,040.4	$0.0	$29.2	$0.0
Readjustment Benefits	$0.0	$0.0	$509.4	$501.8
Compensation and Pensions	$0.0	$0.0	$304.5	$29.1
Direct Loan	$154.4	$35.4	$2.5	$0.6
Education Loan	$51.6	$38.8	$0.0	$0.0
Medical Care	$0.0	$0.0	$32.1	$27.3
Other	$185.3	$0.1	$18.7	$10.1
Total	$2,654.4	$533.8	$1,944.4	$642.7

Note: Loan Guaranty, National Service Life Insurance, and Readjustment Benefits receivables data are as of March 31, 1986. Receivables data on remaining programs are as of September 30, 1985.

Source: Information extracted from VA reports.

U.S. GOVERNMENT PRINTING OFFICE:1986-181-235/40123

(181873)

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